

A.G. Contract No.: KR05-0201TRN
ECS File No.: JPA 05-008
Project No.:
Section: SR 347 and SR 238
Project: Sidewalk Maintenance
TRACS No.: MAINTAGR
Budget Source Item No.: N/A

**MASTER MAINTENANCE
SIDEWALKS**

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
THE CITY OF MARICOPA

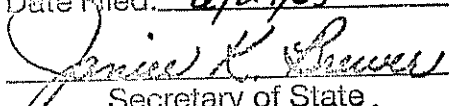
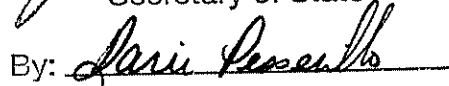
THIS AGREEMENT is entered into this date June 29, 2005, pursuant to Arizona Revised Statutes § 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the TOWN OF MARICOPA, acting by and through its MAYOR and CITY COUNCIL (the "City").

1. The State is empowered by Arizona Revised Statutes § 28-401 to enter into this Agreement and has delegated the undersigned the authority to execute this Agreement on behalf of the State.

2. The City is empowered by Arizona Revised Statutes § 48-572 to enter into this Agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the City.

3. The State and the City desire to participate in the need to assign maintenance responsibilities for all sidewalks on routes located in the State's right-of-way within the City's limits. The current routes are located along State Routes (SR) 347 and SR 238 and as new areas are added, this Agreement shall be amended to include those areas, hereinafter referred to as the "Project".

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows:

NO. 27579
Filed with the Secretary of State
Date Filed: 6/29/05

Secretary of State
By: 

II. SCOPE OF WORK

1. The State shall:

a. Grant the City an "Encroachment Permit" through the Tucson District Maintenance Office, for work inside the State's Control of Access to permit the City to perform all planned maintenance work for the Project.

b. Not be obligated to maintain this Project, should the City fail to budget or provide for proper and perpetual maintenance as set forth in this Agreement.

c. Be responsible to perform all other regular maintenance activities in the State's right-of-way.

2. The City shall:

a. Obtain the necessary "Encroachment Permit", through the Tucson District Maintenance Office, for all planned maintenance work for the Project inside the State's right-of-way.

b. Upon execution and approval, accept the Project on behalf of the parties hereto, provide for perpetual and proper maintenance and all repairs to the sidewalks. Maintenance shall include but not limited to; cleaning, sweeping, making repairs including, removal and replacement of concrete sidewalk slabs as necessary due to cracking, damage and buckling as required to maintain it in a safe and functional condition, and any erosion around the sidewalk shall be maintained to the final grade at time of completion of the sidewalk construction, all at their own expense.

c. Comply with policy regarding the provision of State's Maintenance Manual.

d. Not be responsible to perform all other regular maintenance activities in the State's right-of-way.

3. It is understood and agreed by both parties:

a. Any future installation of new sidewalks, significant additions to existing sidewalks or addition of sidewalks due to new annexation limits, upon agreement of both Party's, will be executed by Amendment to this Agreement, as they occur.

III. MISCELLANEOUS PROVISIONS

1. The parties to this Agreement agree that the State of Arizona shall be indemnified and held harmless by the City for the vicarious liability of the State as a result of entering into this Agreement. Each party to this Agreement is responsible for its own negligence.

2. The terms, conditions and provisions of this Agreement shall remain in full force and effect for a period of five-years (5) from the effective date, unless this Agreement violated any Arizona law, rule or regulation, either now enacted or which may be enacted in the future. This Agreement will be automatically renewed for successive periods of five-years (5) unless either party shall give notice in writing to the other not less than one-month (1) nor more than three-months (3) prior to the initial or renewed expiration date. Further, this Agreement may be cancelled by the State at any time upon thirty-days (30) written notice. It is understood and agreed that, in the event the City cancels this Agreement, the State shall in no way be obligated to maintain the Project unless otherwise stated in this Agreement.

3. This Agreement shall become effective upon filing with the Secretary of State.

4. This Agreement may be cancelled in accordance with Arizona Revised Statutes § 38-511.

5. The provisions of Arizona Revised Statutes § 35-214 are applicable to this Agreement. In the event of any controversy, which may arise out of this Agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes § 12-1518.

6. This Agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 121-1-12213) and all applicable Federal regulations under the Act including 28 CFR Parts 35 and 36. The parties to this Agreement shall comply with Executive Order Number 99-4 issued by the Governor of the State of Arizona, and incorporated herein by reference regarding "Non-Discrimination".

7. Non-Availability of Funds: Every payment obligation of the State under this contract is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this contract, this contract may be terminated by the State at the end of the period for which the funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

8. In the event of any controversy, which may arise out of this Agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes § 12-1518.

9. All notices or demands upon any party to this Agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation
Joint Project Administration
205 S. 17th Avenue – Mail Drop 616E
Phoenix, AZ 85007
(602) 712-7525

City of Maricopa
Attn: Public Works Director
P.O. Box 610
Maricopa, AZ 85239
FAX: (520) 568-9120

10. In accordance with Arizona Revised Statutes § 11-952, (D) attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this State to enter into this Agreement and that the Agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

CITY OF MARICOPA

By 

KELLY ANDERSON
Mayor

ATTEST:

By 

RICK BUSS
Clerk

STATE OF ARIZONA

Department of Transportation

By 

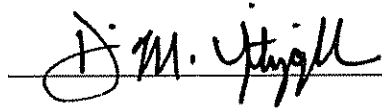
DOUGLAS A. FORSTIE, P.E.
Deputy State Engineer, Operations

JPA 05-008

APPROVAL OF THE CITY OF MARICOPA

I have reviewed the above referenced intergovernmental Agreement between the DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION, and the CITY OF MARICOPA, an Agreement among public agencies which, has been reviewed pursuant to A.R.S. § 11-951 through § 11-954 and declare this Agreement to be in proper form and within the powers and authority granted to the CITY under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this Agreement.

DATED this 7th day of June, 2005.



City Attorney



Meeting Minutes

Regular Meeting May 17, 2005

7:06 PM
Call to Order
Roll Call

A regular meeting of the City of Maricopa Council was held at Maricopa High School (45012 West Honeycutt Avenue – Maricopa, AZ 85239). The meeting was called to order at 7:06 pm. Those present were Mayor Kelly Anderson, Vice- Mayor Brent Murphree, Council Members Stephen Baker, Will Dunn, Edward Farrell, Kelly Haddad, City Attorney Denis Fitzgibbons, City Manager Rick Buss, Finance Director Roger Kolman, PRL Director Marty McDonald, Deputy Clerk Vanessa Bueras, Public Works Director/ City Engineer Bob Jackson, Planning Director Amy Haberbosch-Arco and Planning Consultant Loras Rauch. Councilmember VonFleckinger was not present at this meeting.

Invocation
Pledge of Allegiance
Approval of Minutes

Councilmember Baker delivered the invocation.
Gina D'Abella led meeting attendees in the pledge of allegiance.
Councilmember Baker motioned to approve the minutes from the May 3, 2005 Executive Session Meeting. Second was made by Vice-Mayor Murphree. Motion passed unanimously, 6-0.

Councilmember Baker motioned to approve the minutes from the May 3, 2005 Work Session and Regular Meeting. Second was made by Vice-Mayor Murphree. Motion passed unanimously, 6-0.

Public Hearings

There are no public hearings scheduled.

Consent Agenda

The City Council discussed and took action on consent agenda items 5.1 through 5.4. Consent agenda items were as follows:

- 5.1 **** Payment of Claims.** The City Council shall discuss and possibly take action on payment of claims made to the city.
Discussion and Action.
- 5.2 **** ADOT IGA.** The City Council shall discuss and possibly take action on an intergovernmental agreement with the Arizona Department of Transportation (ADOT), enabling the City of Maricopa to provide sidewalk maintenance within ADOT right-of-ways. **Discussion and Action.**
- 5.3 **** Liquor License Application: Shell Food Mart.** Consideration of recommendation to the Arizona State Liquor Board for a Liquor Store License application submitted by Madanlal Patel, on behalf of Maricopa Shell, LLC, located at 19680 North John Wayne Parkway, Maricopa, AZ 85239. **Discussion and Action.**
- 5.4 **** ZON 05-03.** A request by Elliot Homes to amend the planned area development (PAD) for Santa Rosa Springs located at the southwest corner of Maricopa/Casa Grande Highway and North Porter Road alignment. Elliot Homes is requesting a 3.86 DUA overall and to separate this PAD from the original "Dunn Ranch" PAD. **Discussion and Action.**

Councilmember Haddad motioned to approve agenda items 5.1, 5.2 and 5.3. Second was made by Councilmember Baker. Motion passed unanimously, 6-0. Councilmember Farrell declared a conflict of interest on agenda item 5.3.

A speaker card was filled out by Bobbie Jean Arp to speak on this agenda item. Councilmember Dunn declared a conflict of interest due to the fact that the Arp's are related to him.



Meeting Minutes

Mrs. Arp stated that they would like to be notified anytime work is done around their property. They stated that Elliott Homes had not agreed to four (4) of their nine (9) stipulations and that these stipulations would be the most costly to Elliott Homes. Ms. Arp stated that they do not want a big block wall right in front of their property because it would block the scenic views that they've enjoyed for the last thirty one (31) years. Carey Arp suggested that Elliott Homes put one of their three (3) parks in front of their property instead of a big block wall and two story homes. Planning Director Amy Haberbosch-Arco stated that staff has met with Elliott Homes and that they're ready to present their stipulations tonight.

Steven Earle, on behalf of Elliott Homes, stated that units one (1), two (2), and three (3) are already platted and recorded. He stated that there have been some changes done from what was originally submitted to the county. Mr. Earle stated that he believes that they have made their best efforts to accommodate the existing neighbors in this community. He stated that they can modify the plan to include some of the requests made by the Arp family. Councilmember Haddad asked Mr. Earle if Elliott Homes would be willing to save a section facing the Arp's property to only put one story homes so that their view is not obstructed. Mr. Earle responded by saying that they would rather put a park because one story homes might still obstruct their view. Councilmember Farrell stated that Elliott Homes has really stepped up as far as quality home builder. City Manager Rick Buss stated that Elliott Homes have been highly receptive to everyone's concerns and have made great strides to address everyone's issues and would like to thank them for working with the city.

Councilmember Farrell motioned to approve agenda item 5.4 and directed staff to work with developers to resolve issues identified in memo from the Arp Family dated 05/17/05. Second was made by Councilmember Haddad. Motion passed 5-0.

Mr. Earle added that they will make sure the park is adjacent to their current structure and that the Arp family will be notified of every meeting they have concerning this development.

Agenda Item 5.5- TischlerBise Development Fee Study

The City Council discussed a development fee study conducted by TischlerBise, and in accordance with Arizona Revised Statutes 9-463.05(C) and may take action to give at least sixty (60) days advance notice of the intention to assess a new development fee and to authorize the release to the public a written report including all documentation that supports the assessment of a new development fee.

A Development Fee Study presentation was made by Chris Cullinan of TischlerBise. Councilmember Farrell asked Mr. Cullinan why other cities are charging much more than what is suggested in this study. Mr. Cullinan stated that there are a lot of variables and comparisons and that can be difficult because there are a lot of factors that factor in coming up with this fee. Finance Director Roger Kolman stated that he will be coming forward to Council with a Resolution explaining how the city is going to be paying for this study. Mayor Anderson asked Mr. Cullinan if the earliest that this could be adopted was October 15, 2005. Mr. Cullinan responded by saying yes, he believes so.

Vice-Mayor Murphree motioned to approve this agenda item. Second was made by Councilmember Baker. Motion passed unanimously, 6-0.

Agenda Item 5.6- SUB 04.45 – 04.51

The City Council discussed approval of SUB04.45-04.51, Final Plat for Sorrento Phase I Development to include Parcels 1-7. This is part of a 2,127 lot development located to the north by Bowlin Road, to the West by Fuqua Road, to the East by Hartman Road, and to the South by Farrell Road. This site is zoned PAD (Case #PZ-001-04 and #PZ-PD-001-04).



Meeting Minutes

Planning Director Amy Haberbosch-Arco stated that Sorrento is possibly in their 7th review. She stated that we are only looking at Phase I of this development which include parcels 1-7.

Councilmember Haddad motioned to approve this agenda item. Second was made by Councilmember Baker. Motion passed unanimously, 6-0.

Michael Martindale thanked the city staff for working with them for countless hours. He stated that staff efforts really helped them get their project going. Mr. Martindale stated that he wants to thank staff for all of their support.

Agenda Item 5.7- Resolution 05-17

The City Council discussed a Resolution of the City Council of the City of Maricopa, Pinal County, Arizona, declaring as a public record that certain document filed with the City Clerk and entitled "Article 22- Sign Provisions," relating to the establishment of procedures regulating the erection and maintenance of signs within the City of Maricopa.

Agenda Item 5.8- Ordinance 05-06

Agenda Item 5.9- Ordinance 05-07

The City Council discussed Text Amendment 05-03. An Ordinance of the City Council of the City of Maricopa, Pinal County, Arizona, amending Chapter Sixteen (16) of the City Code (Maricopa Zoning Code) by reference to repeal in its entirety current Article Twenty-two (22) "Signs, Billboards, Name Plates, and other Outdoor Advertising," and replace with new Article Twenty-Two (22) "Sign Provisions."

Agenda Item 5.10- Ordinance 05-08

The City Council discussed Text Amendment 05-04. An Ordinance of the City Council of the City of Maricopa, Pinal County, Arizona, amending chapter Fourteen (14) of the City Code (the City of Maricopa Subdivision Regulations) to add definitions pertaining to open space and trails, to add design standards for bicycle lanes, and to add new Section 407 "Open Space Requirements and Design Standards."

The City Council discussed Text Amendment 05-02. An application to amend chapter 16 of the City Code for the City of Maricopa Zoning Code to repeal in its entirety the current article 21, "Offstreet Parking and Loading, Public Garages, and Filling Stations" and replace with a new article 21 "Parking Regulations and Standards."

Mayor Anderson stated that he would like to send Text Amendment 05-03 and 05-04 back to the Planning & Zoning Commission. He stated that the commission needs to look at the information provided to Council in their packets along with their comments so that they can see the Council's changes. Councilmember Dunn asked Ms. Rauch to please highlight the changes made to make it easier to see the changes.

Councilmember Baker motioned to send agenda items 5.7, 5.8, 5.9 and 5.10 back to the Planning & Zoning Commission. Second was made by Vice-Mayor Murphree. Motion passed unanimously, 6-0.

Agenda Item 5.11- Ordinance 05-09

The City Council discussed an Ordinance of the City Council of the City of Maricopa, Pinal County, Arizona, amending the City of Maricopa Municipal Code, Chapter 10, Section 1-9, thereby adjusting permissible construction activity times and distances and declaring an emergency.

City Manager Rick Buss stated that if Ordinance 05-09 is declared an emergency, it will go into effect tomorrow, May 18, 2005.

Chris Falcone spoke stating that he just would like to get some sleep at night and that realistically the city is only taking two (2) hours away from the builders.

Erin Patterson from the Home Builders Association requested that the termite pre-



Meeting Minutes

treatment be excluded from the noise Ordinance primarily because this activity is often done at night to minimize the window of time between when the treatment is complete and when the concrete is poured. She stated that the longer they wait to pour concrete decreases the effectiveness of the treatment. She also stated that noise generated by the delivery of materials should also be excluded from the noise Ordinance to help minimize theft of materials left over night.

City Manager Rick Buss stated that he discussed the termite pre-treatment issue with Building Official Roger Brooks and Mr. Brooks stated that concrete should be poured within twenty four (24) hours of termite pre-treatment.

Councilmember Farrell motioned to approve Ordinance 05-09 and declare it an emergency. Second was done by Councilmember Haddad. The roll call vote was as follows: Mayor Anderson voted yes, Vice-Mayor Murphree voted yes, Councilmember Baker voted yes, Councilmember Dunn voted yes, Councilmember Farrell voted yes and Councilmember Haddad voted yes.

Agenda Item 6.0- Report from the Mayor

Councilmember Baker stated that he wanted to thank KB Homes for donating a double wide unit, to be used for Public Works, thus saving the city a lot of money.

Mayor Anderson stated that on May 4, 2005 he attended the Central Arizona Association of Governments meeting in Apache Junction. He stated that the theme of the day was on the 208 amendment, water and sewer expansions. He stated that every city in Pinal County is anticipating the oncoming growth and are positioning themselves ahead of private or developer package plants. Mayor Anderson also took the time to invite everyone to the General Plan Advisory Team meeting Wednesday, May 18, 2005 at 6:30 PM in the Summit and the General Plan Public Workshop, the third and final public workshop, on May 25, 2005 also at 6:30 PM in the Summit.

Mayor Anderson stated that on Wednesday, May 18, 2005 there will be a secondary principal open forum at the Summit starting at 6:30 pm. He stated that a moderator will facilitate the meeting and allow the three candidates the opportunity to introduce themselves to the public. He stated that written questions will be taken from the attendees and presented to the candidates by the moderator.

Mayor Anderson stated that there had been another brush fire which devastated a local family. He stated that the Joiner family, of Thunderbird Farms, lost their home today in a fire. He stated that there was no loss of life or injuries, but that the family lost everything they had. Mayor Anderson wanted to let everyone know that there is a support fund started for the family and that information will be available in the local newspapers soon.

Agenda Item 7.0- Call to the Public

Alma Farrell spoke inviting everyone to a community forum tomorrow night at 6:30 in the Summit. She stated that they will have principal candidates for the community to interview. She also wanted to thank everyone for allowing Michael Lavallo to speak during the last Council meeting. She stated that the override passed at tonight's election.

Agenda Item 8.0 – Executive Session

There was no executive session.

Agenda Item 9.0 – Adjournment 9:14 PM

Councilmember Haddad motioned to adjourn. Second was made by Councilmember Baker. Motion passed unanimously, 6-0.

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the regular meeting of the Maricopa City Council held on the 17th day of May, 2005. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 7th day of June 2005



Meeting Minutes

Vanessa Bueras, Deputy Clerk



OFFICE OF THE ATTORNEY GENERAL
STATE OF ARIZONA

TERRY GODDARD
ATTORNEY GENERAL

CIVIL DIVISION
TRANSPORTATION SECTION
WRITER'S DIRECT LINE: 602.542.8855

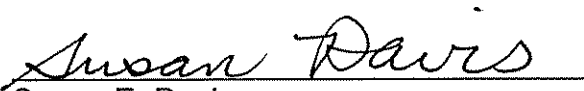
INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. KR05-0201TRN (**JPA 05-008**), an Agreement between public agencies, i.e., *The State of Arizona* and *The City of Maricopa*, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED: June 21, 2005

TERRY GODDARD
Attorney General


Susan E. Davis
Assistant Attorney General
Transportation Section

SED:mjf
Attachment
910751